

REMARKS

Applicants thank Examiner Kang for the telephone conference on September 7, 2004 and for her thoughtful consideration of this case. This Application has been carefully reviewed in light of the Office Action mailed June 28, 2004. To clarify various aspects of inventive subject matter and in some cases to remove unnecessary limitations, Applicants amend Claims 1, 3, 4, 6-8, 10, and 12-14. To advance prosecution of this application, Applicants have responded to each notation by the Examiner. Applicants submit that all of the pending claims are allowable over the cited references. Applicants respectfully request reconsideration, further examination, and favorable action in this case.

Amendments to the Specification

Applicants amend the paragraph beginning at page 8, line 16 to include a reference to FIGURE 7d of the drawings. In addition, Applicants amend the paragraph beginning at page 8, line 13 to include a reference to FIGURES 7a-7c. Furthermore, Applicants amend the paragraph beginning at page 46, line 12 to include a reference to FIGURE 7d. Applicants submit that no new matter has been added by these amendments. The specification provides a description of FIGURES 7a-7c beginning at least at page 37, line 18, and a description of FIGURE 7d beginning at least at page 46, line 12. Applicants respectfully request reconsideration and favorable action in this case.

The Non-Statutory Double Patenting Rejection

The Examiner has rejected Claims 1-21 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-36 of U.S. Patent No. 6,721,475 B1 issued to Islam et al. ("Islam"). The Examiner provides that a timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(c) may be used to overcome this provisional rejection. Without conceding the veracity of any double patenting rejection, but instead solely for the purpose moving this case expediently to issuance, Applicants file herewith a Terminal Disclaimer obviating the double patenting rejection.

Interview Summary

Applicants' attorney conducted a telephonic conference with Examiner Kang on September 7, 2004. Pursuant to M.P.E.P. §713.04, Applicants submit this summary of the telephonic interview to record Applicants' understanding of the substance of the interview. If Applicants' understanding is inaccurate, notice of such is appreciated.

During the interview, Applicants and the Examiner discussed U.S. Patent 6,222,954 issued to Riza ("*Riza*") and independent Claims 1 and 8. Applicants understand that independent Claims 1 and 8 and all claims depending therefrom are allowable over the cited references, subject to a further reading by the Examiner of *Riza* and an updated search.

Claim Rejections – 35 U.S.C. § 102

The Examiner rejects Claims 1-3 and 8-10 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,222,954 B1 issued to Riza ("*Riza*"). Applicant respectfully traverses these claim rejections for the reasons discussed below.

As discussed during the interview, independent Claim 1 recites, in part, "a first beam splitter operable to receive at least one of the plurality of wavelength signals as an optical input signal, and to communicate at least a first part of the optical input signal in a first path and a second part of the optical input signal in a second path." Claim 1 also recites, in part, that "the first part and the second part of the optical input signal comprise unequal amplitudes." As discussed during the interview, *Riza* contains no disclosure of at least these elements. For at least these reasons, Applicants respectfully requests withdrawal of the rejections and full allowance of amended Claim 1 and all claims depending therefrom.

As discussed during the interview, independent Claim 8 recites, in part, "separating, using a first beam splitter, at least one of the plurality of wavelengths of the optical input signal into a first part and a second part." Claim 8 also recites, in part, that "the first part comprises an amplitude that is different than an amplitude of the second part." As discussed during the interview, *Riza* contains no disclosure of at least these elements. For at least these reasons, Applicants respectfully requests withdrawal of the rejections and full allowance of amended Claim 8 and all claims depending therefrom.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending Claims.

Applicants have enclosed a check for \$55.00 to cover the cost of filing a Terminal Disclaimer. Although Applicants do not believe that any additional fees are due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

If the Examiner feels that a conference would advance prosecution of this Application in any manner, Douglas M. Kubehl stands willing to conduct such a telephone interview at the convenience of the Examiner. Mr. Kubehl may be reached at 214-953-6486.

Respectfully submitted,

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